



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,179	11/03/2003	Peter G. Janssen	JPG-31770-A	3580

22202 7590 09/14/2006

WHYTE HIRSCHBOECK DUDEK S C
555 EAST WELLS STREET
SUITE 1900
MILWAUKEE, WI 53202

EXAMINER

BAXTER, GWENDOLYN WRENN

ART UNIT	PAPER NUMBER
----------	--------------

3632

DATE MAILED: 09/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/700,179	Applicant(s) JANSSEN, PETER G.	
	Examiner Gwendolyn Baxter	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-34 and 45-51 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 31-34 and 45-51 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

This the fifth Office action of application serial number 10/700,179, Tool-free Hanging Device, filed on June 3, 2004. This application is a continuation of application serial number 10/268,189, filed October 10, 2002, now patent 6,641,107.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 25, 2005 has been entered.

Claim Objections

Claim 48 is objected to because of the following informalities: line 17 of this claim, "plush plate" should read –push plate-. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 31-34 and 45-51 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,353,455 to Gisondi. The present invention reads on Gisondi as follows: Gisondi teaches a device comprising a push plate (1), a substantially straight lance portion (11), and a hanger portion (5). The substantially straight lance portion projects at about a right angle from the push plate portion. The hanger portion extends and projects from the push plate portion. The lance portion of the object hanging device can be inserted into the wall comprising a drywall or plasterboard material (column 1, lines 9+) by applying a pressing force on the push plate portion in an axial direction until the hanging device is positioned into a device insertion position. When inserted in the device insertion position (see figure 9), the lance portion forms a lance aperture. The lance portion of the object-hanging device can be rotated about the axial direction and in a plane that is substantially parallel to the wall by exerting a rotational force on at least one of the push plate portion and the hanger portion. When so rotated, the lance portion is rotated from the device insertion position to the object hanging position in which the hanger is positioned to receive an object. See figure 11. The hanging device is a unitary structure such that the lance portion is integral with the push plate portion and the push plate portion is in fixed relation to the lance portion and the hanger portion while inserting the lance portion of the hanging device into the wall. A barb portion (16) includes a rear shoulder portion (15) and wherein the rear shoulder can be biased against the inner surface of the wall by rotating the lance portion about the axial direction such that the hanger portion is secured within or to the wall. The hanger portion is impeded from passing back through

Art Unit: 3632

the wall via the lance aperture without further rotation of the lance portion. The barb portion includes a rear shoulder portion (15) that is located at a distance from a rear surface of the push plate portion. The distance is substantially equal to the thickness of the wall. Inserting the lance and barb portions into the wall creates the lance aperture. The lance aperture comprises a rectangular or oblong shape. (The lance aperture is formed when pressure or force is applied to the main body or push plate by way of the sharp pointed end of the barb against the relative thin and small slit like opening, thus enlarging the slit upon entry since the slit is obviously smaller than the thickness of the lance. The relative thickness of the lance appears to be greater than the slit because force is required and applied axial in order for the device to be inserted there through. When the lance is rotated the slit appears to be widen. See Figure 11. Thus, the inward force and the rotation of the lance create the oblong or rectangular lance aperture.)

Since the method is predicated upon the structure of the device, method claims 31-34 and 45-47 are inherent.

Response to Arguments

Applicant's arguments with respect to claims 31-34 and 45-51 have been considered but are moot in view of the new grounds of rejection.

Remarks

Originally applicant's invention was directed solely to the method for positioning a hanging device and not to its utility. Since the method is predicated upon the utility, utility claims 48-51 have not been restricted based upon original presentation.

Conclusion

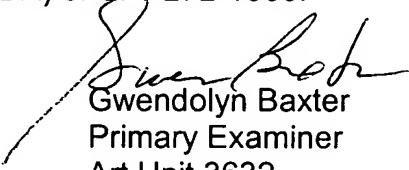
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Farrell 6,866,458 teaches a drywall fastener.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 571-272-6814. The examiner can normally be reached on Monday-Wednesday, 8:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3632

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gwendolyn Baxter
Primary Examiner
Art Unit 3632

September 6, 2006